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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 21st March, 1986:—

BILL No. 16 OF 1986

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1986. Short title and commencement.
(2) It shall be deemed to have come into force on the 26th day of January, 1950.

2. After article 394 of the Constitution, the following new article shall be inserted, namely:— Insertion of new article 394A.

“394A. Notwithstanding anything in this Constitution, the Constitution as adopted in the English language and its translation in Hindi language, published by the President of the Constituent Assembly, shall be the authoritative texts in English and Hindi languages, respectively.” Authoritative-text of the Constitution in Hindi language.

Provided that, besides such amendments as may be made in accordance with the procedure laid down under article 368 being

incorporated in the Hindi and English texts of the Constitution, the President shall have the power, for a period of fifty years from the commencement of this Constitution, to affect such changes in the Hindi translation of the Constitution in Hindi language:—

(a) as may have become essential in the technical terminology thereof as a consequence of the further evolution of the legal terminology; and

(b) to remove discrepancy, if any, discovered between the translation in Hindi language and the text in English language on account of clerical or printing errors or otherwise.”.

STATEMENT OF OBJECTS AND REASONS

The Constituent Assembly had made, by article 343 of the Constitution, Hindi as the official language of the Union to be effectively used for all the official business of the Union and had under article 345 authorised each State to adopt one or more languages or Hindi as its official language or languages. These provisions were made so as to enable the Union of India and the States to transact all their official business effectively through their own official language or languages. But in view of doubts having been raised about its character as the authoritative text of the Constitution in Hindi language, it is essential that immediate steps be taken for giving Hindi translation of the Constitution the character of authoritative text by insertion of a new article.

Hence this Bill.

NEW DELHI;
February 11, 1986.

NARESH CHANDRA CHATURVEDI

BILL NO. 19 OF 1986

A Bill to amend the Railway Property (Unlawful Possession) Act, 1966.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows :—

Short
title and
commence-
ment.

1. (1) This Act may be called the Railway Property (Unlawful Possession) Amendment Act, 1986.

(2) It shall come into force at once.

Amend-
ment of
section 9

2. In section 9 of the Railway Property (Unlawful Possession) Act, 1966, sub-section (4) shall be omitted.

29 of 1966

STATEMENT OF OBJECTS AND REASONS

Sub-section (4) of section 9 of the Railway Property (Unlawful Possession) Act, 1966 (No. 29 of 1966) says that every inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of Indian Penal Code. With a view to have fair, impartial and proper inquiry as contemplated by section 9 of the Act, it is proposed to delete sub-section (4) from that section for the reasons that the inquiry contemplated under section 9 is to be conducted by an officer of Railway Protection Force, who is now included as Armed Force Officer by the latest amendment made by the Parliament. By and large, it has been reported, from time to time, by the employees of the Railway Administration, which is also supported by several judicial decisions that the inquiry conducted by the officers of the Railway Protection Force is vindictive and unfair and further in view of provisions of sub-section (4) the statements of accused persons, during the course of inquiry, are obtained mostly by force or by mis-representation. The Supreme Court has several times pronounced that the duty of prosecuting officer is not to seek the conviction but in all fairness to assist the court to arrive at the truth. However, for the past several years the provisions of sub-section (4) of section 9 are being misused.

The word "judicial proceeding" is not defined in the Indian Evidence Act, 1872. Under section 2(i) of the code of criminal procedure, 1973, "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath. Judicial proceeding is one proceeding in the course of which evidence is or may be taken, or in which any judgment, sentence or final order is passed on recorded evidence.

The officer of the Railway Protection Force is not a police officer and such officer is not authorised and/or empowered under the Indian Oaths Act, 1873, to administer oath to any person or witness to record his statement on oath.

Section 193 of the Indian Penal Code contemplates punishment for giving false evidence in any stage of judicial proceeding. It is pertinent to state that the inquiry made by the officers of the Railway Protection Force cannot be considered as evidence recorded, by the said officer while conducting the inquiry under the Act. The term "Evidence" is defined under section 3 of Indian Evidence Act, 1872 which provides that all statements which the court permits or requires to be made before it by witnesses in relation to matters of facts under inquiry and such statements are called oral evidence. In real sense the word evidence would mean the evidence of the person concerned testified by cross-examination. Article 20(3) of the Constitution provides that no person accused of any offence shall be compelled to be a witness against himself. Since the experience and several judgements pronounced by several High Courts and Supreme Court reveal that the retracted confession by itself cannot be considered for the purpose of conviction of accused

person, yet under the provision of sub-section (4) of section 9, the statements of the accused persons as well as the witnesses are being relied upon to be judicial proceedings by the officers of the Railway Protection Force. In fact the inquiry conducted by the officers of the Railway Protection Force is an administrative inquiry because firstly they are not police officers and secondly the cases filed by the Railway Protection Force are to be dealt with under Chapter XIX-B of the Code of Criminal Procedure, as if the said cases are instituted otherwise than on police report.

In the circumstances, it is proposed that in order to have proper and fair trial as contemplated by our Constitution as well as by the provisions of Indian Evidence Act, and Code of Criminal Procedure, sub-section (4) of section 9 of Railway Property (Unlawful Possession) Act should be deleted.

NEW DELHI;
February 10, 1986.

MADHU DANAVATE

SUBHASH C. KASHYAP
Secretary-General.